

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number

09/657,181

Filing Date

Sept 7, 2000

First Named Inventor

Scott A. MOSKOWITZ, et.al.

Art Unit

2857

Examiner Name

Carol S.W.TSAI

Attorney Docket Number

066112.0132

ENCLOSURES (Check all that apply)

- Fee Transmittal Form
- Fee Attached
- Amendment/Reply
- After Final
- Affidavits/declaration(s)
- Extension of Time Request
- Express Abandonment Request
- Information Disclosure Statement
- Certified Copy of Priority Document(s)
- Reply to Missing Parts/Incomplete Application
- Reply to Missing Parts under 37 CFR 1.52 or 1.53

- Drawing(s)
- Licensing-related Papers
- Petition
- Petition to Convert to a Provisional Application
- Power of Attorney, Revocation
- Change of Correspondence Address
- Terminal Disclaimer
- Request for Refund
- CD, Number of CD(s) _____
- Landscape Table on CD

Remarks

Petition to the DIRECTOR to WITHDRAW
ABANDONMENT UNDER CFR 1.181

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name	SCOTT MOSKOWITZ		
Date	12/29/2005	Reg. No.	

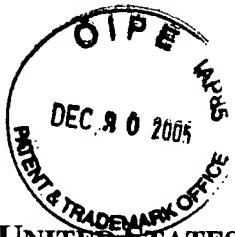
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	SCOTT MOSKOWITZ	Date	12/29/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT
Attorney Docket No.: EX95001-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Scott A. MOSKOWITZ et al.

Appl. No.: 09/657,181

Filed: September 7, 2000

Art Unit: 2857

Examiner: Carol S W TSAI

MAIL STOP PETITIONS

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22314-1450

Sir:

Petition to the Director to Withdraw Abandonment Under CFR 1.181

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

1. I am Scott Moskowitz, President of Blue Spike, Inc., and a co-inventor of the above captioned patent application.
2. The patent application was originally filed and assigned to Blue Spike, Inc. (attached Exhibits F, G, H, and I).
3. I filed a Non-Final Office Action Response and Revocation of Power of Attorney November 22, 2004 (Exhibits D and E).
4. I received a telephonic communication from Mr. Floyd Chapman at the time the Office Action of March 15, 2005 was received by his firm (Wiley Rein & Fielding), which had previously represented Blue Spike, Inc. in the prosecution of the above captioned patent application, regarding Examiner Tsai's instructions to correct the

originally filed Revocation of Power of Attorney to include Mike Berry as co-inventor.

5. On or about March 15, 2005, I called Examiner Tsai and she explained to me what needed to be done to correct the filing.
6. I relied entirely on the instructions of Examiner Tsai and promptly filed Revocations of Power of Attorney for both myself and Michael Berry in order to comply with her instructions.
7. I called Examiner Tsai several times between the end of March 2005 and the beginning of April 2005 to confirm that the corrected Revocation of Power of Attorney had been received (Exhibits B) and to confirm that my previous response was now being recognized by the U.S. Patent & Trademark Office (Exhibit A).
8. On or about April 1, 2005, I again contacted Examiner Tsai to confirm that the corrected papers were filed, and I specifically asked if any other documentation was necessary to have her recognize my previous response.
9. To the best of my specific recollection, Examiner Tsai said in exact words or substance that "no other documents were needed".
10. I did not hear from Examiner Tsai until she contacted me by telephone saying that the application is abandoned because both inventors did not sign the Response of November 22, 2004. This came as a surprise to me because I had specifically asked Examiner Tsai if I needed to take any other action to respond to the outstanding Office Action of November 22, 2004.
11. As a pro se inventor I contacted the Patent & Trademark Office for guidance on remedies and was instructed to speak with Supervisory Examiner Marc Hoff on or about December 14, 2005.
12. The recommendation was to file this Petition to Withdraw an Abandonment under CFR 1.181 and a Request to Proceed on Behalf of a Sole Assignee under CFR § 3.73(b).
13. I am requesting the Commissioner to withdraw the Notice of Abandonment based on the facts that I had provided a substantive response in a timely manner and I had made every effort to comply with the express instructions of the Examiner who attempted to assist me with responding to the Office Action. At all times, I believed I

had fully responded to the Office Action and that I had taken all necessary actions to have the response recognized.

14. I am attaching the following relevant Exhibits:

- A) Notice Regarding Change of Power of Attorney & Notice of Acceptance of Power of Attorney (Mailed April 19, 2005);
- B) Revocation of Power of Attorney signed by Michael Berry & Scott Moskowitz (March 25, 2005);
- C) Office Action (Mailed March 15, 2005);
- D) Response to Non-Final Office Action (Dated November 22, 2004);
- E) Revocation of Power of Attorney signed by Scott Moskowitz (Dated November 22, 2004)
- F) U.S. Patent & Trademark Office Notice of Recordation of Assignment Document (Recordation Date December 12, 2000, Reel/Frame 011365/0665);
- G) Assignment signed by Michael Berry and Scott Moskowitz to Blue Spike, Inc. (Signed November 2000);
- H) Original Declaration and Power of Attorney signed by Michael Berry and Scott Moskowitz (November 20, 2000);
- I) Verified Statement (Declaration) Claiming Small Entity Status (37 CFR 1.9(f) and 1.27(c)) – Small Business Concern signed by Scott Moskowitz as President of Blue Spike, Inc. and Michael Berry and Scott Moskowitz as joint inventors (November 20, 2000).

Respectfully submitted,

Date: December 29, 2005

By: Scott Moskowitz
For Blue Spike, Inc.: Scott Moskowitz
Title: PRESIDENT



O I P E
DEC 29 2005
CANCELLLED
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/657,181	09/07/2000	Scott A. Moskowitz	066112.0132

29693
WILEY, REIN & FIELDING, LLP
ATTN: PATENT ADMINISTRATION
1776 K. STREET N.W.
WASHINGTON, DC 20006

CONFIRMATION NO. 1907

OC000000015776201
OC000000015776201

Date Mailed: 04/19/2005

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/31/2005.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Anita Johnson
ANITA JOHNSON
2800 (571) 272-1588

FORMER ATTORNEY/AGENT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/657,181	09/07/2000	Scott A. Moskowitz	066112.0132

29693
 WILEY, REIN & FIELDING, LLP
 ATTN: PATENT ADMINISTRATION
 1776 K. STREET N.W.
 WASHINGTON, DC 20006

CONFIRMATION NO. 1907

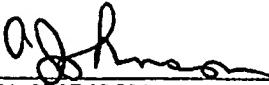
OC000000015776201
 OC000000015776201

Date Mailed: 04/19/2005

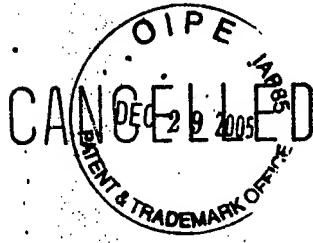
NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/31/2005.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).


 ANITA JOHNSON
 2800 (571) 272-1588

FORMER ATTORNEY/AGENT COPY



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/657,181 Confirmation No. 1907
Applicant : Scott A. MOSKOWITZ
and Michael BERRY
Filed : September 7, 2000
TC/A.U. : 2857
Examiner : Carol S W TSAI
Docket No. : 80408.0012 (066112.0132)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REVOCATION OF POWER OF ATTORNEY

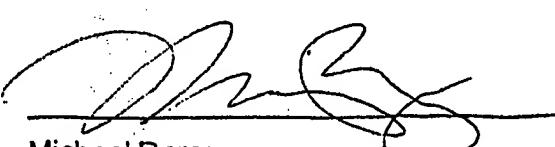
I, Michael Berry, residing at 12401 Princess Jeanne, Albuquerque, New Mexico 87112, being one of the two co-inventors in the above-identified patent application, hereby revoke all powers of attorney previously given in connection with U.S. Application No. 09/657,181 (including without limitation the powers of attorney previously granted to the attorneys of Wiley Rein & Fielding).

Please update the correspondence address as follows:

Scott A. Moskowitz
16711 Collins Avenue, #2505
Miami, FL 33160

Telephone/Facsimile: 305-956-9041

Date: March 25, 2005


Michael Berry

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/657,181 Confirmation No. 1907
Applicant : Scott A. MOSKOWITZ
Filed : and Michael BERRY
September 7, 2000
TC/A.U. : 2857
Examiner : Carol S W TSAI

Docket No. : 80408.0012 (066112.0132)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REVOCATION OF POWER OF ATTORNEY

I, Scott A. Moskowitz, residing at 16711 Collins Avenue, No. 2505, Miami, Florida 33160, being one of the two co-inventors in the above-identified patent application, and being the president of Blue Spike, Inc., the owner of the entire right, title and interest in the above-identified patent application, hereby revoke all powers of attorney previously given in connection with U.S. Application No. 09/657,181 (including without limitation the powers of attorney previously granted to the attorneys of Wiley Rein & Fielding).

Please update the correspondence address as follows:

Scott A. Moskowitz
16711 Collins Avenue, #2505
Miami, FL 33160

Telephone/Facsimile: 305-956-9041

Date: March 25, 2005



Scott A. Moskowitz, individually, and as
President of Blue Spike, Inc.



O I P E
C A N C E L L E D
M A R C H 1 2 2 0 0 5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,181	09/07/2000	Scott A. Moskowitz	066112.0132	1907
29693	7590	03/15/2005		
WILEY, REIN & FIELDING, LLP ATTN: PATENT ADMINISTRATION 1776 K. STREET N.W. WASHINGTON, DC 20006				
EXAMINER TSAI, CAROL S W				
ART UNIT 2857				
PAPER NUMBER				

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Amendment

1. The reply filed on November 22, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The amendment is improper because it was not signed by the attorney of record or by both inventors and is inconsistent with the declaration which lists two inventors instead of Moskowitz being the sole inventor, as asserted on the "Revocation of Power of Attorney" filed November 22, 2004. If Applicants want to correct the inventorship, a petition in compliance with 37 CFR 1.48 must be filed. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Contact Information

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol S. W. Tsai whose telephone number is (571) 272-2224. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax number for TC 2800 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be

Application/Control Number: 09/657,181

Page 3

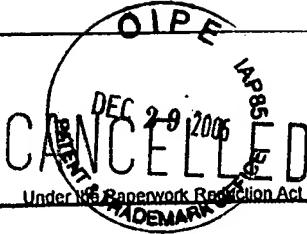
Art Unit: 2857

directed to the TC 2800 receptionist whose telephone number is (571) 272-1585 or (571) 272-2800.

In order to reduce pendency and avoid potential delays, Group 2800 is encouraging FAXing of responses to Office actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2800 will be promptly forwarded to the examiner.

Carol S. W. Tsai
Carol S. W. Tsai
Primary Examiner
Art Unit 2857

03/09/05



PTO/SB/21 (08-03)

Approved for use through 08/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/657,181
Filing Date	September 7, 2000
First Named Inventor	Scott A. MOSKOWITZ
Art Unit	2857
Examiner Name	Carol S W Tsai
Attorney Docket Number	80408.0012

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): <input checked="" type="checkbox"/> Revocation of Power of Attorney (1 page)
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or individual name	Scott A. Moskowitz
Signature	
Date	November 22, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name			
Signature		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEET TRANSMITTAL**for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 55.00)

Complete If Known

Application Number	09/657,181
Filing Date	September 7, 2000
First Named Inventor	Scott A. MOSKOWITZ
Examiner Name	Carol S W Tsai
Art Unit	2857
Attorney Docket No.	80408.0012

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None

Deposit Account:

Deposit Account Number	[REDACTED]
Deposit Account Name	[REDACTED]

The Director is authorized to: (check all that apply)

- Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or any underpayment of fee(s)
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	[REDACTED]
1002 340	2002 170	Design filing fee	[REDACTED]
1003 530	2003 265	Plant filing fee	[REDACTED]
1004 770	2004 385	Reissue filing fee	[REDACTED]
1005 160	2005 80	Provisional filing fee	[REDACTED]
SUBTOTAL (1) (\$ 0			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
	-20** =	[REDACTED] X [REDACTED] = [REDACTED]	[REDACTED]
Independent Claims	-3** =	[REDACTED] X [REDACTED] = [REDACTED]	[REDACTED]
Multiple Dependent		[REDACTED] = [REDACTED]	[REDACTED]

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 280	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue Independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2) (\$ 0		

**or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	[REDACTED]
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	[REDACTED]
1053 130	1053 130	Non-English specification	[REDACTED]
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	[REDACTED]
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	[REDACTED]
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	[REDACTED]
1251 110	2251 55	Extension for reply within first month	[REDACTED]
1252 420	2252 210	Extension for reply within second month	[REDACTED]
1253 950	2253 475	Extension for reply within third month	[REDACTED]
1254 1,480	2254 740	Extension for reply within fourth month	[REDACTED]
1255 2,010	2255 1,005	Extension for reply within fifth month	[REDACTED]
1401 330	2401 165	Notice of Appeal	[REDACTED]
1402 330	2402 165	Filing a brief in support of an appeal	[REDACTED]
1403 280	2403 145	Request for oral hearing	[REDACTED]
1451 1,510	1451 1,510	Petition to institute a public use proceeding	[REDACTED]
1452 110	2452 55	Petition to revive - unavoidable	[REDACTED]
1453 1,330	2453 665	Petition to revive - unintentional	[REDACTED]
1601 1,330	2601 665	Utility issue fee (or reissue)	[REDACTED]
1502 480	2502 240	Design issue fee	[REDACTED]
1503 640	2503 320	Plant issue fee	[REDACTED]
1480 130	1480 130	Petitions to the Commissioner	[REDACTED]
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	[REDACTED]
1808 180	1808 180	Submission of Information Disclosure Stmt	[REDACTED]
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	[REDACTED]
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	[REDACTED]
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	[REDACTED]
1801 770	2801 385	Request for Continued Examination (RCE)	[REDACTED]
1802 900	1802 900	Request for expedited examination of a design application	[REDACTED]
Other fee (specify) _____			
*Reduced by Basic Filing Fee Paid		SUBTOTAL (3) (\$ 55.00	

SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	Scott A. Moskowitz	Registration No. (Attorney/Agent)	Telephone 305-956-9041
Signature	[Signature]	Date	November 22, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/657,181 Confirmation No. 1907
Applicant : Scott A. Moskowitz, et al.
Filed : September 7, 2000
TC/A.U. : 2857
Examiner : Carol S W Tsai

Docket No. : 80408.0012
Customer No. : 29693

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR EXTENSION OF TIME
AND RESPONSE TO OFFICE ACTION**

Sir:

This application is U.S. Patent Application No. 09/657,181, filed September 7, 2000.

In response to the non-final Office Action, dated July 22, 2004, Applicants submit the following response:

Request for Extension of Time

Applicants hereby request a one (1) month extension of time to reply to the Office Action dated July 22, 2004. The time for response is therefore extended up to and including November 22, 2004. A credit card payment form in the amount of \$55.00 to cover the required fee is enclosed with this filing.

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

REMARKS/ARGUMENTS

Rejections under Double Patenting

§ 101 Rejections based on a judicially created doctrine of provisional obviousness-type double-patenting

Applicants respectfully traverse the Examiner's assertion that the instant invention's Claim 1 (and all claims depending therefrom) is not patentably distinct from co-pending Application No. 09/671,739 Claim 1. While Applicants may disagree with the premise of the rejection, if Claim 1 of US Patent Application No. 09/671,739 is issued as a patent, Applicants will file a terminal disclaimer at that time.

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

Rejections under 35 U.S.C. § 112 first paragraph must assess whether there is written description to support the claim language

Claims 1-25

Applicants respectfully traverse the rejection of claims 1-25 under 35 USC §. 112 first paragraph.

See MPEP § 2163(II)(A)(3)(b), at 2100-165 ("To comply with the written description requirement of 35 USC § 112, para. 1, ... each claim limitation must be expressly, implicitly, or inherently supported in the originally filed disclosure") (emphasis added); see also *Martin v. Mayer*, 823 F.2d 500, 505 (Fed. Cir. 1987) ("[The written description analysis] is 'not a question of whether one skilled in the art might be able to construct the patentee's device from the teachings of the disclosure. ... Rather, it is a question whether the application necessarily discloses that particular device.'") (quoting *Jepson v. Coleman*, 314 F.2d 533, 536, 136 U.S.P.Q. (BNA) 647, 649-50 (CCPA 1963)). In this case, the claim limitation at issue is "query signal". Thus, "query signal" must be the focus of a "written description" analysis.

The Federal Circuit has found that the purpose of the requirement is to protect against over-reaching claims that may be added by amendment after the filing date:

Satisfaction of the description requirement insures that subject matter presented in the for of a claim subsequent to the filing date of the application was sufficiently disclosed at the time of filing so that the prima facie date of invention can be fairly held to be the filing date of the application.

Vas-Cath Inc. V. Mahurkar, 935 F.2d 1555 (Fed. Cir. 1991) (quoting *In re Smith and Hubin*, 481 F.2d 914 (CCPA 1973) (citations omitted)). In this case, there can be no doubt

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

that the claim language at issue, "query signal", was present in the application as originally filed on September 7, 2000. Accordingly, there can be no doubt that the policy behind the written description requirement is met.

It is well settled that "to satisfy the written description requirement, the disclosure as originally filed does not have to provide *in haec verba* support for the claimed subject matter at issue." *Purdue Pharma L.P. v. Faulding Inc.*, 230 F.3d 1320, 1323 (Fed. Cir. 2000) (citing *Fujikawa v. Wattanasin*, 93 F.3d 1559, 1570 (Fed. Cir. 1996)) (emphasis added).

In this application, however, there is *in haec verba* support. Thus, the rejection should be withdrawn.

Rejections under 35 U.S.C. § 112 second paragraph

Claims 1-25

Applicants respectfully traverse the rejection of claims 1-25, 35 USC §. 112 second paragraph.

Contrary to the Examiner's assertion that "query signal" is indefinite, the term is widely understood in the art of databases. One of the most widely deployed database technologies is "SQL" meaning "structured query language". Applicants affirm that the term query signal is not repugnant to the meaning of the term "query" alone. A "query signal" as disclosed refers to the "signal" being monitored or analyzed. Indeed, Claim 1 makes this very clear when it recites [emphasis added]: "receiving at least one query signal to be analyzed." In other words, a "query signal" is a signal that is being queried. Because this is made clear in at least the Summary and in the original claims, the Applicants request the rejection to be withdrawn.

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

MPEP § 608.01(a) "The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described, and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail."

With regards to Claim 24, the Specification teaches that the "criteria" is used by the processor in creating "an abstract", and, so, Claim 24 is merely referencing that the same criteria is shared between the "processors".

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

Rejections under 35 U.S.C. § 102

§ 102 Rejections based on Rhoads

Claims 1, 4-6, 8, 12, 13, and 16-20 stand rejected as allegedly anticipated by U.S. Patent No. 6,430,302 issued to Rhoads (hereafter Rhoads). (See page 4 of the Office Action).

Claim 1, 8, and 13 (and all claims depending therefrom)

In order for a reference to anticipate a claim, the reference must disclose each and every limitation of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See *Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). Independent Claim 1 recites, *inter alia*, [emphasis added]: "A method for monitoring and analyzing at least one signal comprising: receiving at least one reference signal to be monitored; creating an abstract of said at least one reference signal; storing the abstract of said at least one reference signal in a reference database; receiving at least one query signal to be analyzed; creating an abstract of said at least one query signal; comparing the abstract of said at least one query signal to the abstract of said at least one reference signal to determine if the abstract of said at least one query signal matches the abstract of said at least one reference signal." The 102 rejection based on Rhoads is improper for at least the reason that Rhoads fails to disclose "creating an abstract of said reference signal" and "storing the abstract of said at least one reference signal in a reference database."

In fact, Rhoads' description that, "[t]he N-bit identification word refers to a unique identification binary value ... which is the identification code placed onto the original signal ... " Rhoads, at col. 4, ll. 33-38 indicates *independence* from the original signal, *not* an abstract created *from* a reference signal, contrary to the Examiner's assertion. Rhoads' "N-bit identification code word" is, thus, allegedly an independent "invisible signature" encoded in such a manner as to yield a "distributable signal" *not* an abstract to be stored in a reference database, Rhoads at col. 38, ll. 33-38: "[b]riefly and for the sake of clarity, the phrases and terms 'signatures,' 'invisible signatures,' and 'signature codes' have been and will continue to be used to refer to the general techniques of this invention and often refer specifically to the composite embedded code signal as defined early on in this disclosure." Being independent from the "reference signal" Rhoads' "embedded code" cannot be equivalent with the Applicants' "abstract". Rhoads teaches away from Applicants' claim limitation: "creating an abstract of said reference signal" and "storing the abstract of said at least one reference signal in a reference database."

Second, that this identification code is encoded *into* the original signal makes it inaccessible without the original signal, Rhoads at col. 5 ll. 21-28, "... [t]he N-bit identification word is encoded onto the original signal by having each of the m bit values multiply their corresponding individual embedded code signals, the resultant being accumulated in the composite signal ... the resultant composite signal added to the original to become the distributable signal." With Rhoads there is no "query signal" from which an abstract is created. Thus, Rhoads does not teach the claim limitation: "receiving at least one query signal to be analyzed; creating an abstract of said at least one query signal; comparing the abstract of said at least one query signal to the abstract of said at least one reference signal to determine if the abstract of said at least one query signal matches the

abstract of said at least one reference signal." Instead, the original signal is differenced with a suspect signal (more on this aspect below). This approach teaches away from creating abstracts based on a reference signal, storing said abstracts in a database, and comparing query signal abstracts with the reference signal abstracts in the database, contrary to the assertions of the Examiner.

Third, Rhoads' description of how his "invisible signatures" are decoded teaches away from the Applicants' invention. Rhoads allegedly relies on the embedded code signal[s] for identification, not comparisons of "reference signal abstracts" with "query signal abstracts" – no abstract is disclosed. At the very least, Rhoads' original signal[s] inherently lack the encoded invisible signature and, thus, cannot equate to the abstracts of the Applicants. In fact, Rhoads differences a "suspect signal" with the "original signal" to attempt recovery of the N-bit identification word. Why use abstracts for identification purposes if invisible signatures must first be extracted from the suspect signal based on a comparison with the original signal? *Rhoads* at col. 5 ll. 57-60: "[o]nce the suspect signal has been sample-spacing matched and registered to the original, the signal levels of the suspect signal should be matched in an rms sense to the signal level of the original. This can be done via a search on the parameters of offset, amplification, and gamma being optimized by using the minimum of the mean squared error between the two signals as a function of the three parameters." Additionally, *Rhoads* at col. 5 ll. 66 – col. 6 ll. 10:

The newly matched pair then has the original signal subtracted from the normalized suspect signal to produce a difference signal. The difference signal is then cross-correlated with each of the N individual embedded code signals and the peak cross-correlation value recorded. The first four bit code ('0101') is used as a calibrator both on the mean values of the

zero value and the one value, and on further registration of the two signals if a finer signal to noise ratio is desired (i.e., the optimal separation of the 0101 signal will indicate an optimal registration of the two signals and will also indicate the probable existence of the N-bit identification signal being present.)

If the original and suspect signals are compared to yield a difference signal which is then used to determine if the "N-bit identification signal [is] present", including use of a "0101" "calibrator", Rhoads teaches away from the Applicants' claim limitations for creation of an "abstract" from a "reference signal" for later comparison with the "abstract" of a "query signal". Rhoads discloses further examples of his decoding scheme at col. 17 ll. 35 – col. 18 ll. 5. Rhoads' approach may make recovery of the N-bit identification word impossible (more on this additional point below).

Fourth, the identification word of Rhoads is not an "abstract" but "noise," Rhoads at col. 17 ll. 40. Rhoads discloses several times that his N-bit identification word is akin to "noise." See Rhoads at col. 3 ll. 50-53; col. 15 ll. 54-57; col. 17 ll. 14-16; col. 17 ll. 61-64; col. 20 ll. 38-42; and, the lengthy description provided at col. 23 ll. 55 – col. 24 ll. 50. Because this noise becomes inherent to the original signal even comparisons with the suspect signal for decoding purposes may result in "erasing" the "embedded code." If such erasure occurs how can it be compared with a query signal abstract? Rhoads discloses the problem, "[a]t step 9, FIG. 3, if we were to subtract the 'original' with its embedded code, we would obviously be 'erasing' the code as well since the code is an integral part of the original. Fortunately, remedies do exist and identifications can still be made. However, it will

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

be a challenge to artisans who refine this embodiment to have the signal to noise ratio of the identification process in the pre-exposed negative case approach the signal to noise ratio of the case where the un-encoded original exists," *Rhoads* at col. 13 ll. 20-28. An "abstract", as disclosed by the Applicants, is not noise, and cannot be "erased."

Because *Rhoads* fails to disclose (1) "creating an abstract of said at least one reference signal", (2) "storing the abstract of said at least one reference signal in a reference database", and (3) "comparing the abstract of said at least one query signal to the abstract of said at least one reference signal to determine if the abstract of said at least one query signal matches the abstract of said at least one reference signal" as required by Claim 1, the Section 102 rejection of Claim 1 must be withdrawn. Moreover, for the same reasons that Claim 1 is patentable over *Rhoads*, independent Claims 8 and 13 and the claims that depend from Claims 1, 8 and 13 also are patentable. Applicants request the Examiner withdraw the Section 102 rejections of Claims 1, 8, and 13, and all claims depending therefrom, based on *Rhoads*.

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

Rejections under 35 U.S.C. § 103

In order to "establish a prima facie case of obviousness, three basic criteria must be met." MPEP § 7.06.02(j). First, there must be some motivation or suggestion to modify the reference or to make the proposed combination. Second, there must be a reasonable expectation of success. "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure." MPEP § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Third, the combined references must teach or suggest all claim limitations.

§ 103 Rejections based on Rhoads

Claims 21 (and all claims depending therefrom)

Claim 21 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhoads. Examiner asserts that, "Rhoads discloses an electronic system for monitoring and analyzing at least one signal, comprising: a first input that receives at least one reference signal to be monitored, a processor that creates an abstract of each reference signal input to said first processor through said first input...", Office Action at 6, Applicants respectfully disagree.

It is unclear how the Examiner construes the term "multiprocessor" as this term is not part of the claim language. The Examiner's Official Notice regarding a combination of Rhoads with "multiprocessor" is also not clear to the Applicants. Applicants thus respectfully request clarification on the 103 rejections based on Rhoads and "multiprocessor."

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

As previously presented, Rhoads, allegedly discloses a method for embedding an N-bit identification word into an original signal. Decoding the N-bit identification word requires differencing the unencoded original signal and a suspect signal to yield a difference signal. This difference signal looks like noise and cannot be independently decoded. It is not an abstract nor is there any comparison between a reference signal abstract, stored in a reference database, with a query signal abstract as required by the claim limitations.

None of the claimed elements are disclosed by Rhoads, including: (1) "a first input that receives at least one reference signal to be monitored"; (2) "a first processor that creates an abstract of each reference signal input to said first processor through said first input"; (3) "a second input that receives at least one query signal to be analyzed, (4) "a second processor that creates an abstract of each query signal"; (5) "a reference database that stores abstracts of each at least one reference signal"; and, (6) "a comparing device that compares an abstract of said at least one query signal to the abstracts stored in the reference database to determine if the abstract of said at least one query signal matches any of the stored abstracts." Rhoads does not disclose any of the claimed elements in independent Claim 21. Applicants therefore request that Examiner withdraw the Section 103 rejections of Claims 21 (and all claims that depend therefrom).

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

Comments concerning Allowable Subject Matter

Examiner explains that: "Claims 2, 3, 7, 9-11, 14, 15, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims" Office Action at Page 7.

Applicants maintain that the term "query signal" is common to the art of databases including the pervasive "SQL" or "Structured Query Language". This is the most common database in use today and at the time of the instant invention's filing was well-known to artisans.

MPEP 707.07(j) states: "When, during the examination of a *pro se* application it becomes apparent to the examiner that there is patentable subject matter disclosed in the application, the examiner should draft one or more claims for the applicant and indicate in his or her action that claims would be allowed if incorporated in the application by amendment." Applicants are proceeding *pro se* and request clarification on the how the cited claims can be rewritten if the term "query signal" continues to be objectionable.

Appl. No. 09/657,181
Response to Office Action dated July 22, 2004

Conclusion

Applicants maintain that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicant, either by telephone or in person, would further prosecution of this application, we would welcome the opportunity for such an interview.

Respectfully submitted,



Date: November 22, 2004

By:

Scott A. Moskowitz



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/657,181 Confirmation No. 1907
Applicant : Scott A. MOSKOWITZ
Filed : September 7, 2000
TC/A.U. : 2857
Examiner : Carol S W Tsai

Docket No. : 80408.0012

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REVOCATION OF POWER OF ATTORNEY

I, Scott A. Moskowitz, residing at 16711 Collins Avenue, No. 2505, Miami, Florida 33160, being the sole inventor and owner of total interest in the above-identified patent application, hereby revoke all powers of attorney previously given in connection with U.S. Application No. 09/657,181(including without limitation the powers of attorney previously granted to the attorneys of Wiley Rein & Fielding).

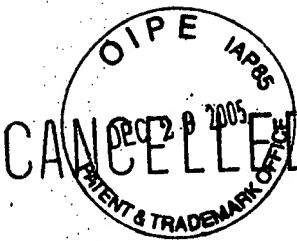
Please update the correspondence address as follows:

Scott A. Moskowitz
16711 Collins Avenue, #2505
Miami, FL 33160

Telephone/Facsimile: 305-956-9041

Date: November 22, 2004


Scott A. Moskowitz



031838-7005



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MARCH 07, 2001

PTAS

BROBECK, PHLEGER & HARRISON LLP
FLOYD B. CHAPMAN
INTELLECTUAL PROPERTY DEPARTMENT
1333 H STREET, N.W., SUITE 800
WASHINGTON, DC 20005



101564649A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 12/12/2000

REEL/FRAME: 011365/0665
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
MOSKOWITZ, SCOTT A.

DOC DATE: 11/22/2000

ASSIGNOR:
BERRY, MICHAEL W.

DOC DATE: 11/29/2000

ASSIGNEE:
BLUE SPIKE, INC.
16711 COLLINS AVENUE, #2505
MIAMI, FLORIDA 33160SERIAL NUMBER: 09657181
PATENT NUMBER:FILING DATE: 09/07/2000
ISSUE DATE:TONYA LEE, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

RECEIVED

MAR 12 2001

BROBECK

ASSIGNMENT

WHEREAS, WE, Scott A. Moskwotiz, residing at 16711 Collins Avenue, #2505, Miami, Florida, 33160, USA, and Michael W. Berry, 12401 Princess Jeanne, Albuquerque, New Mexico, 87112, USA, have invented certain new and useful improvements in and to the subject matter of:

METHOD AND DEVICE FOR MONITORING AND ANALYZING SIGNALS

described in an application for United States Letters Patent filed on September 7, 2000, and accorded Application No. 09/657,181;

AND, WHEREAS, Blue Spike, Inc., a corporation organized under the laws of the State of Florida, having a place of business located at 16711 Collins Avenue, #2505, Miami, Florida, 33160, USA (hereinafter "ASSIGNEE"), is desirous of acquiring certain rights to the improvements and under the application;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) or the equivalent thereof, and other good and valuable consideration, receipt of which is hereby acknowledged, we do hereby sell, assign and transfer unto said ASSIGNEE, its successors, assigns and legal representatives, our entire right, title and interest in and throughout the United States of America (including its territories and dependencies) and all countries foreign thereto in and to said improvements, said United States application, any other United States applications, including provisional, divisional, renewal, substitute, continuation, reexamination and reissue applications, based in whole or in part on said United States application or in whole or in part on said improvements, any foreign applications, including international and regional applications, based in whole or in part on any of the aforesaid United States applications or in whole or in part on said improvements, and in and to any and all letters patent, including extensions thereof, of any country which have been or may be granted on any of the aforesaid applications or on said improvements or any parts thereof;

AND WE hereby authorize and request our attorneys, Brobeck, Phleger & Harrison LLP, whose address is 1333 H Street, N.W., Suite 800, Washington, DC 20005, to insert hereon any identification necessary or desirable for recordation of this document, including the filing date and application number of said application when known.

AND WE hereby agree for ourselves and our heirs, executors and administrators to execute without further consideration any further documents and instruments which may be necessary, lawful and proper in the prosecution of said above-referenced application or in the preparation or prosecution of any continuing, substitute, divisional, renewal, reexamination or reissue application or in any amendments, extensions or interference proceedings, or other applications for patents of any region or country, that may be necessary to secure to ASSIGNEE its interest and title in and to said improvements or any parts thereof, and in and to said several patents or any of them;

AND WE hereby covenant for ourselves and our legal representatives, and agree with said ASSIGNEE, its successors and assigns, that we have granted no right or license to make, use, sell or offer to sell said improvements, to anyone except said ASSIGNEE, that prior to the execution of this deed, our right, title and interest in said improvements had not been

~~RECEIVED
OPIE
DEC 2 2005
CANCELLLED~~RECORDATION FORM COVER SHEET
PATENTS ONLY

To the Honorable Commissioner for Patents: Please record the attached original document(s) or copy(ies) thereof.

1. Name of Conveying Party(ies):

Scott A. Moskowitz

Michael W. Berry

Additional name(s) of conveying party(ies) attached?

 Yes No

2. Name and Address of Party(ies) receiving an interest (assignee(s)):

Name: Blue Spike, Inc.

Name:

Address: 16711 Collins Avenue, #2505

Address:

Miami, Florida 33160

Country: USA

Country:

Additional name(s) and address(es) attached?

 Yes No

3. Nature of Conveyance:

 Assignment Merger Change of Name Verified Translation Security Agreement Other: _____

Execution Date: November 22, 2000 and November 29, 2000

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date(s) of the application is: _____

A. Patent Application No(s).:

09/657,181

B. Patent No(s).:

Others on additional sheet(s) attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Floyd B. Chapman
 Intellectual Property Department
 Brobeck, Phleger & Harrison LLP
 1333 H Street, N.W.
 Suite 800
 Washington, DC 20005
 (202) 220-6000 (telephone)
 (202) 220-5200 (facsimile)

6. Total number of applications and patents involved:

Application(s): 1

+ Patent(s): _____

= Total: _____

7. Total Fee (37 C.F.R. § 3.41) \$ 40.00 Enclosed Authorized to be charged to Deposit Account8. Deposit Account No.: 50-1640

(Duplicate copy of this sheet attached)

 Charge any underpayment or credit any overpayment to above Deposit Account

DO NOT USE THIS SPACE

9. Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Floyd B. Chapman, Reg. No. 40,555

Name of Person Signing

Floyd B. Chapman

Signature

Dec 12, 2000

Date

Total number of pages including cover sheet, attachments, and document:

otherwise encumbered, and that we have not and will not execute any instrument in conflict therewith;

AND WE do hereby authorize and request the United States Commissioner for Patents to issue any and all letters patent which may be granted upon said United States applications, or upon said improvements or any parts thereof when granted, to said ASSIGNEE.

IN WITNESS WHEREOF, we have hereunto set our hands and seals.

Date

Scott A. Moskowitz

County of)

) ss:

State of)

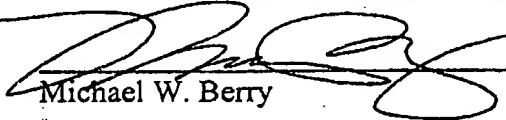
On this _____ day of _____, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared Michael Berry, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

(SEAL)

Date

Notary Public

My Commission Expires _____


Michael W. Berry

County of Bernalillo)

) ss:

State of New Mexico)

On this 29th day of November, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared Michael Berry, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

(SEAL)



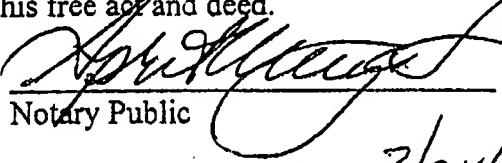
OFFICIAL SEAL

April Wyant

NOTARY PUBLIC
STATE OF NEW MEXICO

My Commission Expires:

3/24/2003


Notary Public

My Commission Expires 3/24/2003

BROBECK, PHLEGER & HARRISON LLP
INTELLECTUAL PROPERTY DEPARTMENT
1333 H STREET, N.W.
SUITE 800
WASHINGTON, D.C. 20005
(202) 220-6000 (TELEPHONE)
(202) 220-5200 (FACSIMILE)

otherwise encumbered, and that we have not and will not execute any instrument in conflict therewith:

AND WE do hereby authorize and request the United States Commissioner for Patents to issue any and all letters patent which may be granted upon said United States applications, or upon said improvements or any parts thereof when granted, to said ASSIGNEE.

IN WITNESS WHEREOF, we have hereunto set our hands and seals.

11-22-00


Scott A. Moskowitz

County of DADE

ss:

State of **FLORIDA**

On this 22 day of NOVEMBER, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared SCOTT A. MOSKOWITZ to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

(SEAL)

Notary Public

Date _____

Michael W. Berry

County of

1

State of

SS-2

On this _____ day of _____, 2000, before me a Notary Public in and for the County and State aforesaid, personally appeared _____, to me known and known to me to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be of his free act and deed.

(SEAL)

Notary Public

My Commission Expires

**BROBECK, PHLEGER & HARRISON LLP
INTELLECTUAL PROPERTY DEPARTMENT
1333 H STREET, N.W.
SUITE 800
WASHINGTON, D.C. 20005
(202) 220-6000 (TELEPHONE)
(202) 220-5200 (FACSIMILE)**



Attorney Docket No.: 031838.0001

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

METHOD AND DEVICE FOR MONITORING AND ANALYZING SIGNALS

the specification of which: is attached hereto.

was filed on: September 7, 2000

as Application No.: 09/657,181

and was amended on _____ (if applicable).

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

Prior Foreign Application(s)

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Country	Application Number	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
				Yes <input type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Prior Provisional Application(s)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)

Prior United States Application(s)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, as my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the following attorneys, their registration numbers being listed after their names:

Rodger L. Tate, Registration No. 27,399; Anthony W. Shaw, Registration No. 30,104; James Remenick, Registration No. 36,902; Michael J. Songer, Reg. No. 39,841; Cono A. Carrano, Registration No. 39,623; Laurence H. Posorske, Registration No. 34,698; Floyd B. Chapman, Registration No. 40,555; David J. Kulik, Registration No. 36,576; Robert A. King, Registration No. 42,738; and Trevor Q. Coddington, Registration No. 46,633.

All correspondence and telephone communications should be addressed to: Intellectual Property Department; Brobeck, Phleger & Harrison LLP; 1333 H Street, N.W.; Suite 800; Washington, DC 20005, telephone number (202) 220-6000; facsimile number (202) 220-5200, which is also the address, telephone and facsimile numbers of each of the above listed attorneys.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature _____ Date _____

Full Name of First Inventor: MOSKOWITZ Scott A.
(Family Name) (First Given Name) (Second Given Name)
Citizenship: United States of America
Residence: 16711 Collins Avenue, #2505, Miami, Florida 33160 USA
Post Office Address: Same as above

Signature _____ Date 11/26/00

Full Name of Second Inventor: BERRY Michael W.
(Family Name) (First Given Name) (Second Given Name)
Citizenship: United States of America
Residence: 12401 Princess Jeanne, Albuquerque, New Mexico, 87112 USA
Post Office Address: Same as above

Signature



Date 11-22-02

Full Name of
First Inventor:

MOSKOWITZ
(Family Name)

Scott
(First Given Name)

A.
(Second Given Name)

Citizenship: United States of America

Residence: 16711 Collins Avenue, #2505, Miami, Florida 33160 USA

Post Office
Address: Same as above

Signature

Date _____

Full Name of
Second Inventor:

BERRY
(Family Name)

Michael
(First Given Name)

W.
(Second Given Name)

Citizenship: United States of America

Residence: 12401 Princess Jeanne, Albuquerque, New Mexico, 87112 USA

Post Office
Address: Same as above



VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN			Docket No. 066112.1032
Application No. '09/657,181	Filing Date September 7, 2000	Patent No.	Issue Date
Applicant/ Patentee: Scott A. MOSKOWITZ et al.			
Invention: Method and Device For Monitoring and Analyzing Signals			
I hereby declare that I am:			
<input type="checkbox"/> the owner of the small business concern identified below:			
<input checked="" type="checkbox"/> an official of the small business concern empowered to act on behalf of the concern identified below:			
NAME OF CONCERN: Blue Spike, Inc.			
ADDRESS OF CONCERN: 16711 Collins Avenue, #2505, Miami, Florida 33160 USA			
I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.			
I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the above-identified invention described in:			
<input type="checkbox"/> the specification filed herewith with title as listed above.			
<input checked="" type="checkbox"/> the application identified above.			
<input type="checkbox"/> the patent identified above.			
If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).			

Each person, concern or organization to which I have assigned, granted, conveyed or licensed or am under an obligation under contract or law to assign, grant, convey or license any rights in the invention is listed below:

- No such person, concern or organization exists.
- Each such person, concern or organization is listed below.

FULL NAME _____

ADDRESS _____

Individual Small Business Concern Nonprofit Organization

FULL NAME _____

ADDRESS _____

Individual Small Business Concern Nonprofit Organization

FULL NAME _____

ADDRESS _____

Individual Small Business Concern Nonprofit Organization

FULL NAME _____

ADDRESS _____

Individual Small Business Concern Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Scott A. Moskowitz

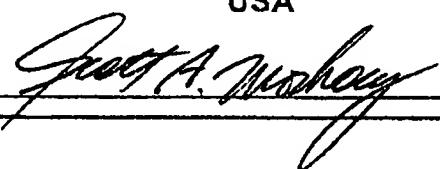
TITLE OF PERSON SIGNING

OTHER THAN OWNER: President

ADDRESS OF PERSON SIGNING: 16711 Collins Avenue, #2505

Miami, FL 33160

USA

SIGNATURE: 

DATE: 11-20-00

PIPE
CANCELLLED
DEC 29 2000
IAPB

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) AND 1.27(b)) - INDEPENDENT INVENTOR			Docket No. 066112.0132
Application No. 09/657,181	Filing Date September 7, 2000	Patent No.	Issue Date
Applicant/ Patentee: Scott A. MOSKOWITZ et al.			
Invention: Method and Device for Monitoring and Analyzing Signals			
<p>As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled above and described in:</p> <p><input type="checkbox"/> the specification to be filed herewith.</p> <p><input checked="" type="checkbox"/> the application identified above.</p> <p><input type="checkbox"/> the patent identified above.</p>			
<p>I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).</p>			
<p>Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:</p> <p><input type="checkbox"/> No such person, concern or organization exists.</p> <p><input checked="" type="checkbox"/> Each such person, concern or organization is listed below.</p>			
<p>*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)</p>			
FULL NAME	<u>Blue Spike, Inc.</u>		
ADDRESS	<u>16711 Collins Avenue, #2505, Miami, Florida 33160 USA</u>		
	<input type="checkbox"/> Individual	<input checked="" type="checkbox"/> Small Business Concern	<input type="checkbox"/> Nonprofit Organization
FULL NAME			
ADDRESS			
	<input type="checkbox"/> Individual	<input type="checkbox"/> Small Business Concern	<input type="checkbox"/> Nonprofit Organization
FULL NAME			
ADDRESS			
	<input type="checkbox"/> Individual	<input type="checkbox"/> Small Business Concern	<input type="checkbox"/> Nonprofit Organization
FULL NAME			
ADDRESS			
	<input type="checkbox"/> Individual	<input type="checkbox"/> Small Business Concern	<input type="checkbox"/> Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

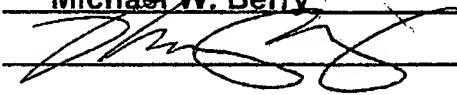
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF INVENTOR Scott A. Moskowitz

SIGNATURE OF INVENTOR _____

DATE: _____

NAME OF INVENTOR Michael W. Berry

SIGNATURE OF INVENTOR 

DATE: 11/26/02

NAME OF INVENTOR _____

SIGNATURE OF INVENTOR _____

DATE: _____

NAME OF INVENTOR _____

SIGNATURE OF INVENTOR _____

DATE: _____

NAME OF INVENTOR _____

SIGNATURE OF INVENTOR _____

DATE: _____

NAME OF INVENTOR _____

SIGNATURE OF INVENTOR _____

DATE: _____

NAME OF INVENTOR _____

SIGNATURE OF INVENTOR _____

DATE: _____

NAME OF INVENTOR _____

SIGNATURE OF INVENTOR _____

DATE: _____

NAME OF INVENTOR _____

SIGNATURE OF INVENTOR _____

DATE: _____

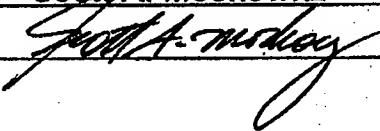
I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF INVENTOR

Scott A. Moskowitz

SIGNATURE OF INVENTOR



DATE: 11-20-00

NAME OF INVENTOR

Michael W. Berry

SIGNATURE OF INVENTOR

DATE: _____

NAME OF INVENTOR

SIGNATURE OF INVENTOR

DATE: _____

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

BLACK BORDERS

IMAGE CUT OFF AT TOP, BOTTOM OR SIDES

FADED TEXT OR DRAWING

BLURRED OR ILLEGIBLE TEXT OR DRAWING

SKEWED/SLANTED IMAGES

COLOR OR BLACK AND WHITE PHOTOGRAPHS

GRAY SCALE DOCUMENTS

LINES OR MARKS ON ORIGINAL DOCUMENT

REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY

OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.